80-5173

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Supreme Court, U. S.
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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1980

NO. ~~79-56-II~~

AMBROSE W. J. CLAY, ADMINISTRATOR, ETC.
Appellant

vs

Allen Banks Hall, et al.
~~THE SUPREME COURT OF THE STATE OF TENNESSEE~~
~~THE COURT OF APPEALS OF TENNESSEE~~
~~CHANCERY COURT PART II, OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE~~
Respondents

APPEAL TO REVIEW THE JUDGMENT OF THE
COURTS OF THE STATE OF TENNESSEE HEREIN

AMBROSE W. J. CLAY, PRO SE
P.O. Box 22642
Nashville, Tennessee 37202

80-5173

IN THE SUPREME COURT OF THE UNITED STATES

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

AMBROSE W. J. CLAY, ADMINISTRATOR OF THE
ESTATE OF MARY PATTERSON

VS

THE SUPREME COURT OF TENNESSEE
THE COURT OF APPEALS OF TENNESSEE
CHANCERY COURT PART II, OF NASHVILLE
AND DAVIDSON COUNTY, TENNESSEE, IN THE
MATTER OF AMBROSE W. J. CLAY, ETC. vs. ALLEN BANKS HALL, ET UX

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SUPREME COURT, U.S.

Petitioner, Ambrose W. J. Clay, who has been denied a stay, by the Courts in the caption herein, askr leave to file the attached petition to appeal to the Supreme Court of the United States, without prepayment of costs and to proceed in forma pauperis. The petitioner's affidavit in support of this petition is attached hereto.

Ambrose W. J. Clay

Ambrose W. J. Clay, Pro Se

AFFIDAVIT IN SUPPORT OF PETITION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, IN THE CAUSE HEREIN, AND FOR THE REASONS HEREIN SETFORTH

I, Ambrose W. J. Clay, Administrator of the Estate of Mary Patterson, being first duly sworn according to law, depose and say that I am the petitioner in the above-entitled cause, and, in support of my application for leave to proceed without being required to prepay costs of fees, state as follows:

1. That the estate of Mary Patterson is unable to pay the costs of the said cause.
2. That the security previously owned by the estate, was incorporated in a certificate of deposit, filed with Chancery Court Clerk, which the Court Ordered cashed, when this case was still pending in the Supreme Court of Tenn., and when a Motion had been filed in opposition to defendants Motion, requiring the certificate to be cashed upon the signatures of the clerk and the appellant, which the appellant duly excepted.
3. I believe that I am entitled to the redress I seek, as was demonstrated by a Motion Filed with Judge Wm. J. Harbison, Motion attached.
4. The nature of said cause is briefly stated as follows:

Mary Patterson was the owner of the property in dispute, to which the defendants excepted, and presented perjuryed and false representation, clearly indicated in the record. Defendants refused to accept payments presented unto them by the Administrator, and with full knowledge, failed to file a claim in the County Court within the time prescribed by law.

The Administrator filed suit in the Chancery Court to determine ownership. The Court ruled in favor of the estate, but allowed a claim or lien against the estate, presented by the appellees, upon false representation, to which the appellant excepted, and presented sufficient legal authority to warrant a dismissal of the claim.

Ambrose W. J. Clay, P.O. Box 22642,
Nashville, Tennessee, 37202

SWORN AND SUBSCRIBED BEFORE ME Clarence E. Ethridge, A Notary Public, in and for said County and State, this the 11th day of June, 1980.

My Commission expires: 1-4-82

Clarence E. Ethridge
NOTARY PUBLIC

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CASE CITATIONS

Cases:

Hartford Steam Boiler Inspection & Ins. Co. v. Harrison, 301 U.S. 459
Colgate v. Harvey, 296 U.S. 404, 80 L Ed 299, 56 S Ct 252, 102 ALR 54
Corporation Com. of Oklahoma v. Lowe, 281 U.S. 431, 74 L Ed 945, 50 S Ct 397
Cincinati, H. &D. R. Co. v McCullom, 183 Ind 556, 109 NE 206, affd 245 US 632, 62 L Ed 521, 38 S Ct. 64
Walker v Board of Supervisors. 224 Miss 801, 81 So 2d 255, cert den 350 US 887 100 L Ed 782, 76 S Ct.
Lowe V Kansas, 163 US 81, 41 L Ed 78, 16 S Ct 1031.

Please Note:

"Equal protection of the laws is not denied to any person by a statue which is applicable to all persons under like circumstances and does not subject the individual to an arbitrary exercise of power. Supra

The decisions supporting the above proposition are virtually limitless in number, the above cases are sufficient to prove this point.

CASE CITATION STATE

Cases:

Hamm v. Hamm, 204 S. W. 2d 113, 30 Tenn. App. 122, 175 ALR 523
Mayhew v. Mayhew, 376 S.W. 2d 324, 52 Tenn. App. 459
Shelby County v. City of Memphis, 365 S.W. 2d 291, 211

STATUE

Acts 1939, ch. 175. Sec. 2; 1947, ch. 137, Sec. 1; C. Supp. 1950, Sec. 8196.2; Acts 1971, ch. 229, Sec. 2.

80-5173

RECEIVED
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IN THE

SUPREME COURT OF THE UNITED STATES

NO.

AMBROSE W. J. CLAY, ADMINISTRATOR, ETC.

Appellant

VS.

THE SUPREME COURT OF THE STATE OF TENNESSEE
THE COURT OF APPEALS OF TENNESSEE
CHANCERY COURT PART II, OF NASVILLE AND DAVIDSON COUNTY, TENNESSEE

Respondents

APPEAL BY PETITION TO REVIEW THE JUDGMENT OF COURTS OF THE STATE OF TENNESSE HEREIN

The petitioner, Ambrose W. J. Clay, Administrator of the estate Mary Patterson, prays that a review of the judgment of the courts herein be initiated by this Court.

OPINIONS BELOW

The judgment and opinion of the Court of Appeals, rendered September 3, 1979, unreported. The Order denying petition to rehear was entered 21st day April, 1980 unreported.

The Order denying application for a petition for a writ of certiorari, was entered April 21, 1980, unreported.

The unreported opinion of the Court of Appeals for Middle District of Tennessee, at Nashville, rendered September 3, 1979, appears at Appendix A, infra., Page 7.

JURISDICTION

The final judgment of the Supreme Court of the State of Tennessee, was entereth on May 16, 1980, denying a stay, requiring the Chancery Court clerk and the Court from cashing the certificate of deposit filed with the Chancery Court clerk, until the appellant could seek redress with the Supreme Court of the United States.

The jurisdiction of this Court rests upon 28 USC 1275 (1) and Rule 10 of this Court. A timely appeal was iniatiated by the appellant by filing notice of appeal in the proper State Court.

QUESTION PRESENTED NO. I

The question presented for consideration in the instant case relates to the equal protection clause of the Fourteenth Amendment of the Constitution of the United States, and did the State Court denied the appellant this right, when, the Court deny the appellant a stay, so that his interest could be protected while appealing to this Court.

QUESTION PRESENTED NO. II

This question presented for consideration relates to whether a civil conspiracy between the Courts to adversely affect the appellant rights, by effecting unlawful acts in accepting perjured and false representation presented by the defendants, and by striking said false representation and perjurious documentation from the records.

> In a civil proceeding, a civil conspiracy is a combination of two or more persons by some concerted action to accomplish some criminal or unlawful purpose, or to accomplish some purpose not in itself criminal or unlawful by criminal or unlawful means, to the injury of another. While the essence of the crime of conspiracy is the agreement, the essence of civil conspiracy is damages. It has been said that there is no such thing as a civil action for conspiracy; the action is one for damages arising out of the acts committed pursuant to the conspiracy.

QUESTION PRESENTED NO. III

This question presented for consideration relates to the authority of Chancery Court Part II, to place a lien on decedents estate, outside the County Court, which was created by State statue to effect lawful claims arising out of decedent estate. This question further relates to the jurisdiction or the lacks of jurisdiction of Chancery Court Part II, to administer claims in this Court.

CONSTITUTIONAL PROVISIONS INVOLVED

The Constitution of the United States Fourteenth Amendment.

> "All persons born or naturalized in the United States and subject to jurisdiction thereof are citizens of the United States and of the state wherein they reside, no state within their jurisdiction shall deprive any person of life, liberty, or property without due process of the law or deny to any person within its jurisdiction the equal protection of the laws..."

EMBODIMENT OF CONSTITUTIONAL CONCEPT OR EQUALITY OF RIGHT

> "One of the principles on which this government was founded is that of equality of right, and this principle is emphasized in the equal protection clasue of the Fourteenth Amendment. The Constitution of the United States is no respecter of the financial status of persons, and rich and poor are to be accorded equal rights under it..."

FEDERAL STATUTES

affd 387 US 369, 18 L Ed 2d 830, 87 S Ct 1627

379 US 184, 109 US 3, 27 L Ed 835, 3 S Court 1132

91 S Court 592 427 US 297, 49 L Ed 2d 511, 96 S Ct 2513

No persons should be denied the equal protection of the laws of the land, and particularly, when other persons are treated alike under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed. ALR 855, affd 274 US 200, 71 L Ed 1000. 47 S Ct 584

In this connection, the questions presented, namely nos. 1, 2, and three become the substantive issues in this case.

When evidence, truth, and facts, supported by laws are presented to the courts herein by other persons other then the appellant, the courts recognized them. Evidence, facts, truth, and law, when presented by the appellant are ignored.

Evidence, facts truth and law, when presented by the appellant have no place in the courts herein. This is well substantiated in this case and in other cases where the appellant had a direct or indirect interest. See HOMEOWNERS ENTERPRISES, INC. vs. J. K. Bradley et al, Davidson County Equity.

In this particular case the plaintiff had to publish printed materials to bring these facts to the public attention, copy of same, is attached in appendix "B"

When the appellant presents evidence and facts in a case in the courts herein they are cast away, as a Holy and Righteous person, clean and immaculate would cast away a foul and bloody menstruous pad. The record is replete with evidence and facts in the case herein, and as well as in the case of Homeowners Enterprises, Inc. v. Bradley et al (supra) but they are not accepted by the courts herein. There is no questions whatsoever of the facts that the courts herein have by their action deprived the appellant of his Civil Rights, and refuse to be objective in their rulings and opinions.

Each of the question presented, and the failure of the Courts herein, to be non-partisan in their opinions and judgments, have denied the appellant equal protection under the provisions of the 14th Amendment to the Constitution of the United States, by failing to abide to the provision incorporated in question no. 1, and by assuming jurisdiction to allow a claim on the estate of the decedant, with the actual affirmation of the higher Court, and by working in collusion to adversely affect the rights of the appellant.

STATEMENT OF THE CASE

This case involves a dispute as to ownership of land between the appellees, Allen Banks Hall, and Wife, Julia Hall, and the Administrator of the estate of Mary Patterson. The Administrator filed a suit in Chancery Court Part II, of Nashville and Davidson County, Tennessee, for a determination by this Court, as to ownership.

The Court upon the receipt of the preponderance of evidence, ruled that Mary Patterson was the owner of the house and lot located at 1317 5th Avenue North, Nashville, Tennessee.

The Court after having ruled in favor of the estate of Mary Patterson, allowed a claim on the property of the decedant's estate outside the requirment of law.

The State Statutes violated are TCA Sec. 30-509, Acts of 1939, Ch.175, sec. 2 et seq. Many other statutes regarding jurisdiction were also violated.

The Chancery Court Part II, had jurisdiction only insofar as to determine ownership, but had no jurisdiction to effect a claim. Cockrell v. Cockrell, 83 S.W. 2d 281, 19 Tenn. App. 71 Caton v. Pic-Walsh Freight Co. 364 S. W. 2d 931, 211 Tenn. 334 Shelby County v. City of Memphis, 365 S.W. 2d 291, 211 Tenn. 410

The action of Chancery Court Part II, the Court of Appeals of Tenn., for the Middle District, and the Supreme Court of the State of Tennessee, is repugnant to the constitution as violative of the right of the appellant, and thus, violates the appellant's right under the 14th amendment to the Constitution of the United States of America.

This particular fact was brought to the attention of all of the Courts involved,in pleadings properly presented. (see appellant's brief, assignment of error No. II.)

The Court of appeals of Tennessee, by Court Order filed Nov. 30, 1979, deliberately struck appellants' complaint in part. The Court said, "That all complaints in the brief of said appellant be and they are stricken, except the complaint stated in Issue No. 1, which is:

> "Was it error for the Chancellor to declare a lien upon property of the deceased while the estate of deceased was being administered in another court?"

What the Court of Appeals did, was to strike all of the evidence pertaing to perjured and false representation as was presented by the appellees to effect a claim against the estate of the deceased.

The Supreme Court of Tenn., acquiesced in the action consummated by both courts, by refusing to review the appellant petition for a writ of certiorari. Thus, it is clear that a collusion existed between the courts to adversely affect the appellant's rights to redresses, guaranteed by the constitution of the United States of America.

The following facts are presented to substantiate the collusion allegations perpetrated by the courts:

1. Chancery Court, accepted as facts false and perjured statements, Involving, payments of rent, living heirs, welfare payments, and the court assuming jurisdiction to allow a claim on decedant's estate.

It is absolutely clear that the actions of the State Courts in the Middle Tennessee area, are contrary to any known laws, which guarantees an appellant the right of appeal, and particularly, when such rights are demanded, as in this instant case.

The appellant in his application for a writ of a certiorari, filed a motion contemporaneously, requesting that if the Supreme Court deny his petition, to grant a stay, staying the Clerk and the Chancellor from cashing the certificate of deposit, until the appellant could appeal his case to this Court.

The Supreme Court of Tennessee denied his petition and waited until the the Court of appeals had issued a mandate to the Chancery Court Part II to the effect that the Court should finalize this case.

Upon receipt of a copy of the mandate, the appellant moved the Courts to reconsider, and further moved the Court to vacate the mandate on the grounds that the appellant would appeal his case to the Supreme Court of the United States.

The Court of Appeals of Tennessee, and the Supreme Court of Tennessee, both denied the reconsideration requested, and similarly denied the stay, requested by the appellant for appellate purposes.

All of the facts stipulated herein proves beyond a shadow of doubt, that the Courts herein did by collusion adversely affected the rights of the appellant.

These courts after having studied all of the citations of the laws respecting jurisdiction, false representation, perjury and pertinent matters having to do with this case, **ignored all** of them as though the appellant had not rights at all.

It is the sincere opinion of the appellant, that when truth and law is presented in any case, the appellant is directly or indirectly involved, the courts herein deliberately accept the false representations, and cast aside the truth and the law. This is well documented in the case of Home Owners Enterprises, Inc. vs J.K. Bradley, et al, Davidson Equity, Nashville, Tennessee, and Home Owners Enterprises, Inc. vs W. H. Thompson et al, No. 77-1420-II, Nahsville, Tennessee.

The facts documented in these (supra) cases are so obvious, that any one person with a meager education can see them very clearly.

There can be only one conclusion in this case and the cases mention herein (supra) that the the States courts herein have a conflict of interest in these cases, and or they are so partisan in their deliberations, that it would be absolutely impossible to procure the justice that the appellant is entitled. Rights that are clearly spelled out are denied.

This Court should review this case and also review the cases mentioned(supra) otherwise justice will be buried and and trampled under foot, and illegal manifestation will become a standard in cases the appellant will be involved therein. The appellant as a matter of right, is entitled to this appeal and this Court should instantaneously look into it.

On May 16, 1980, Chancery Court granted appellees' motion to have the certificate of deposit cashed (Appendix "A") and overruled appellant's motion to overrule appellees' motion on the grounds that this case was still pending before the Supreme Court of Tennessee, and by motion to reconsider, (Appendix "A") and this motion contained a request to vacate the mandate of the Court of Appeals of Tennessee, and to stay the Court and Clerk from cashing the certificate of deposit.

The Chancellor C. Allen High, ordered the certificate to be cashed immediately without the signature of the appellant, and accordingly, the atty., for the appellees prepared the order instantly and presented the same to the clerk for cashing. The clerk was asked by the appellant not to cash the certificate of deposit, but he insisted that the Chancellor ordered him to cash the certificate "now"

The collusion was further consummated by the Court of Appeals of Tennessee, when they struck two of the assignment of error of the appellant, involving false representation perpetrated by the defendants, and did not conform to previous rulings of other courts involving the jurisdiction of a subject matter...., to allow a claim outside the provision of law vested in the County Court.

3. The Supreme Court of Tennessee concurred in the action of the inferior courts by failing to review those facts involving these matters. This fact is fully substantiated by the action of Mr. William J. Harbison, Supreme Court Justice, when he, on May 16, 1980, had the appellant to believe that he would do what was right, while in his office, for the purpose of getting a stay to prevent the cashing of the certificate of deposit filed with the Chancery Court clerk in lieu of a bond for appellate purposes. He said," I cannot act in the absence of an official request in writing" He indicated a motion should be presented to him. The motion was presented to him 20 minutes after, the appellant left his office, and he had ample time to act upon it. However, he did not act upon the motion until the certificate of deposit had been cashed.

It appears that Judge Harbison and Chancellor C. Allen High, met at meeting conducted in a Federal building, and about 12.30 P.M., the certificate of deposit was cashed by the clerk,and upon receipt of this knowledge, the motion for a stay was denied, late on the afternoon of May 16, 1980. Thus, the substance of this case was the certificate of deposit and the right to appeal to this Court for a determination before the certificate was cashed.

The stay in this instance would have prevented the inferior court and the clerk from cashing the certificate until the appellant had exercised his appeal rights to this Court, both of which was taken away by partisan and collusion methods. The actions involving Chancellor High, Judge Harbison and the Supreme Court are noted in Appendix "A" of this appeal.

The unlawfulness of a collusion or conspiracy may be found either in the end sought or the means to be used. A.T. Stearns Lumber Co. v Howlett, 260 Mass 45 157 NE 82, 52 ALR 1125. (see Mason v. Funderburk, 247 Ark 521, 446 SW2d 543, and the actionable violation of a civil right, Cranston v Bluhm, 33 Wis 2d 192, 147 NW2d 337, app r2 Wis 2d 425, 167 NW2d 236.

CONCLUSION

For these reasons, this Court should accept this appeal to review the unwarranty actions of the State Courts herein, and after review of the judgment and opinon of the Court of Appeals, and the Chancery Court Part II, the same should be reversed and appellant's certificate of deposit reinstated, to the appellant, and early action to this effect is earnestly solicited.

Ambrose W. J. Clay
Administrator

CERTIFICATE OF SERVICE

I hereby certify that 1 conformed copy of the above and foregoing brief for the appellant was mailed to Chancellor C. Allen High, Metro Courthouse, Nashville, Tennessee, The Supreme Court Clerk for deliverance to the Supreme Court of Tennessee, and to the Court of Appeals of Tennesse for the Middle District, Supreme Court Building, Nashville, Tennessee, and to the Honorable Robert L. Taylor, 3rd Floor, Sthalman Building, Nashville, Tennessee., this the 16th day of June, 1980.

APPENDIX A

IN THE SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE STATE OF TENNESSEE

FILED
MAY 27 1980
RAMSEY LEATHERS
CLERK
SUPREME COURT

TO THE CLERK OF THE SUPREME OF THE STATE OF TENNESSEE

IN THE MATTER OF AMBROSE W. J. CLAY, ADMINISTRATOR OF THE ESTATE OF MARY PATTERSON

VS 77-1334-II

ALLEN BANKS HALL, ET AL

DAVIDSON EQUITY

~~THE SUPREME COURT OF TENNESSEE~~

~~THE COURT OF APPEALS OF TENNEESEE, FOR THE MIDDLE DISTRICT~~

~~CHANCERY COURT PART II, OF NASHVILLE AND DAVIDSON COUNTY, TENNEESSEE~~

NOTICE

This is to give Notice that Ambrose W. J. Clay, Administrator of the Estate of Mary Patterson, acting Pro Se, shall appeal the Judgment of the Supreme Court of the State of Tennessee, entered by Mandate on the 22 day of April, at 8.25 A. M., affirming the Judgment of Chancery Court Part II, and the said appeal shall be perfected and docketed within the time prescribed by law.

This is to give further notice, that it appears to the appellant, that Allen Banks Hall, et ux, have no further interest in this case, since the Certificate of deposit in the amount exceeding $3,800.00 have been cashed by the Order of Chancery Court Part II, and the Supreme Court of Tennessee, both of which, denied, a stay in the matter properly presented by the appellant, and did by their action, prejudiced the appellant right of appeal to the Supreme Court of the United States. The provisions of the 14th Amendment to the Constitution of the United States will be applied to effect this appeal.

Respectfully submitted

Ambrose W. J. Clay
P.O. Box 22642, Nashville, TN., 37202

CERTIFICATE OF SERVICE

I hereby certify that a copy of this notice, have been mailed to the Clerk of the Supreme Court of the United, Washington, D. C.20543, the Court of Appeals of Tennesse, the Supreme Court of Tennessee, 37219, Chancery Court Part, II, Metro Court House, Nashville, Tenn., 37201, and Mr. Robert L. Taylor, Attorney for Allen Banks Hall, et ux, Sthalman Building, Nashville, Tenn., 37201, this the 22 day of May, 1980.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

AMBROSE W. J. CLAY, Administrator of the Estate of Mary Patterson,

Plaintiff-Appellant,

vs.

ALLEN BANKS HALL, et al.,

Defendants-Appellees.

Davidson Equity

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RAMSEY LEATHERS
CLERK
SUPREME COURT

ORDER

Upon consideration of the application for permission to appeal and reply thereto, briefs of counsel and the entire record in this cause, the Court is of the opinion that the application should be and the same hereby is denied at the cost of appellant.

PER CURIAM

Office of CLERK OF THE SUPREME COURT
FOR THE MIDDLE DIVISION OF THE STATE OF TENNESSEE

I, RAMSEY LEATHERS, Clerk of said Court, do hereby certify that the foregoing is a true, perfect, and complete copy of the ORDER DENYING APPLICATION FOR PERMISSION TO APPEAL *of said Court, pronounced at its December term, 19* 79, *in case of* AMBROSE W. J. CLAY, ADMINISTRATOR *against* ALLEN BANKS HALL, ET AL *as appears of record now on file in my office.*

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the Court at office in the Supreme Court Building at Nashville, on this, the 21st *day of* April, 19 80

Ramsey Leathers, Clerk

By Margaret M. Fowler, Deputy Clerk

COURT OF APPEALS, NASHVILLE

MB 25/351

Appeal No. 79-56-II

AMBROSE W. J. CLAY,
Administrator of the Estate
of Mary Patterson,

Plaintiff-Appellant

Davidson Equity
(No. 77-1334-II)

vs.

Affirmed
and
Remanded.

ALLEN BANKS HALL and
JULIA HALL, Individually
and Jointly,

Defendants-Appellees

JUDGMENT

This cause coming on to be heard upon the record on appeal from the Chancery Court of Davidson County, briefs and argument of counsel; upon consideration whereof, this Court is of opinion that in the decree of the Chancellor there is no reversible error.

In accordance with the opinion of the Court filed herein, it is, therefore, ordered and decreed by this Court that the decree of the Chancellor is affirmed. The cause is remanded to the Chancery Court of Davidson County for the enforcement of the decree of the Chancellor and for the collection of the costs accrued below.

Costs of appeal will be paid by Ambrose W. J. Clay, Administrator, from the Certificate of Deposit in the amount of $3,869.60 deposited in lieu of security. 2/4/80.

Office of CLERK OF THE COURT OF APPEALS
FOR THE MIDDLE DIVISION OF THE STATE OF TENNESSEE

I, RAMSEY LEATHERS, Clerk of said Court, do hereby certify that the foregoing is a true, perfect and complete copy of the JUDGMENT of said Court, pronounced at its September term, 19 79, in case of AMBROSE W. J. CLAY, ADMINISTRATOR vs. ALLEN BANKS HALL, ET AL as appears of record now on file in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the Court at office in the Supreme Court Building at Nashville, on this, 21st day of April 19

AMBROSE W. J. CLAY, Administrator of the Estate of Mary Patterson,

Plaintiff-Appellant

VS

ALLEN BANKS HALL and JULIA HALL, Individually and Jointly,

Defendants-Appellees

DAVIDSON EQUITY

O P I N I O N

This appeal is from the judgment of the Chancellor holding that defendants are entitled to a judgment in the amount of $3,120.90 and that the judgment constitutes a lien against certain real estate. In September, 1968, the defendants conveyed the real estate in question to Mary Patterson for the consideration of $7800, payable at the rate of $76.12 per month for 144 monthly installments. Mrs. Patterson made the monthly payments from October, 1968, until her death in April, 1977. The Chancellor, after an evidentiary hearing, held that "Mary Patterson was the owner of the property in question and upon her death her rights to the property passed to her lawful heirs," that the defendants were entitled to a "judgment on the counter-claim in the amount of $3,120.90," and that the judgment constituted a lien against the property.

Plaintiff Ambrose W. J. Clay appealed and cited several "complaints." Defendants moved to dismiss the appeal because there was no transcript of the evidence and "all of the complaints in the brief" were based upon "trial evidence." After argument, this Court struck all of the issues except one: "Was it error for the Chancellor to declare a lien upon property of the deceased while the estate of deceased was being administered in another court?"

Under T.C.A. § 31-602(a) the property in question vested in the heirs of Mary Patterson immediately upon her death. It was not part of her estate subject to be sold for payment of her obligations in the absence of proof that Mary Patterson's personal property was insufficient to discharge those obligations. Id. No such proof is before us. The property, therefore, is not affected by statutory provisions relating to the administration of decedents' estates including T.C.A. § 30-510.[1] Since the property passed to the heirs it was not within the jurisdiction of the Probate Court. See T.C.A. § 30-603. The Chancellor properly exercised jurisdiction over it. T.C.A. § 16-602.

Additionally, we note that plaintiff is estopped to contest the jurisdiction of the Chancery Court in this action. Plaintiff initiated this suit in Chancery Court. Having invoked the jurisdiction of the Chancery Court, plaintiff is estopped to seek to reverse its decision on the ground of lack of jurisdiction. Cothron v. Scott, 60 Tenn. App. 298, 304, 446 S.W.2d 533, 536 (1969) (quoting 31 C.J.S. Estoppel § 117 (1964) (footnote omitted)).

Plaintiff's contention is overruled. The judgment of the Chancellor is affirmed with costs to plaintiff.

Samuel L. Lewis

SAMUEL L. LEWIS, JUDGE

SHRIVER,P.J., Concurs

TODD,J., Concurs

1/ Plaintiff refers to T.C.A. § 30-510 [illegible]

COURT OF APPEALS OF TENNESSEE

MIDDLE SECTION AT NASHVILLE

AMBROSE W. J. CLAY, ETC., ET AL

Appellant

VS.

ALLEN BANKS HALL, ET AL

Appellees

DAVIDSON EQUITY

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CLERK
COURT OF APPEALS

O R D E R

The appellees moved this Court to dismiss the appeal of Ambrose Clay because there is no bill of exceptions or transcript of evidence and all the complaints in the brief of said appellant are based upon trial evidence;

And it appearing from the record that there is no transcript of evidence and that most, but not all, of the complaints in the brief of said appellant require an examination of the evidence and that most, but not all, of the complaints of said appellant are unsupported by the Chancellor's finding of fact and conclusions of law;

It is therefore ordered that all complaints in the brief of said appellant be and they are stricken except the complaint stated in Issue No.1, which is:

> "Was it error for the Chancellor to declare a lien upon property of the deceased while the estate of deceased was being administered in another court?"

It is further ordered that further briefing, argument, and consideration of this cause will be confined to the issue stated above.

Upon motion of appellees, it is ordered that the repl brief of appellees may be filed within fifteen (15) days from the entry of this order.

ENTER: _____ , 1978

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(5)

FILED
MAY 1 1980
RAMSEY BLEVINS
CLERK
SUPREME COURT

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

AMBROSE W. J. CLAY, Administrator, etc.,

Appellant-Petitioner,

vs.

ALLEN BANKS HALL, et al.,

Appellees-Respondents.

Davidson Equity

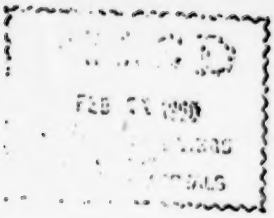
ORDER

The motion filed on behalf of appellant for a stay pending appeal to the Supreme Court of the United States is denied.

Also denied are two motions filed by appellant under date of April 23, 1980 pertaining to the previous action taken by the Court respecting his application for permission to appeal.

Enter this 1st day of May, 1980.

PER CURIAM



AMBROSE W. J. CLAY, Administrator of the Estate of Mary Patterson,

Plaintiff-Appellant

VS

ALLEN BANKS HALL and JULIA HALL, Individually and Jointly,

Defendants-Appellees

DAVIDSON EQUITY

ORDER

Plaintiff Ambrose W. J. Clay has filed a "Petition to Re-Hear" and "Motion to Reconstitute Strucked [sic] Issues in Complaint File." Each of the matters raised in the Petition and Motion has been previously considered by this Court and found to be without merit. The Petition to Rehear and the Motion are overruled with costs to plaintiff.

Samuel L. Lewis

SAMUEL L. LEWIS, JUDGE

SHRIVER,P.J., Concurs

TODD,J., Concurs

IN THE CHANCERY COURT, PART II, OF DAVIDSON COUNTY, TENNESSEE

AMBROSE W. J. CLAY)
)
VS.) RULE NO. 77-1334-II
)
ALLEN BANKS HALL, ET UX)

ORDER

This cause came on to be heard on this the 16th day of May, 1980 before the Honorable C. Allen High, Chancellor upon the motion of the defendants and cross plaintiffs Allen Banks Hall and wife, Julia Hall for an order directing the plaintiff Ambrose W. Clay to endorse the certificate of deposit now on file with the Clerk and Master in order that the Clerk and Master might pay the judgment and interest and court costs in this case; or in the alternative an order directing the Clerk and Master to cash the said certificate of deposit and pay the judgment, court costs and accrued interest.

And it appearing unto the court that the motion is well taken and that the certificate of deposit should be cashed and the judgment, court costs and interest be paid from the proceeds received therefrom and it further appearing unto the court, that Ambrose W. J. Clay appeared in open court and refused to endorse the said certificate of deposit.

IT IS ACCORDINGLY ORDERED, ADJUDGED AND DECREED and the Clerk and Master is hereby ordered and directed to cash the certificate of deposit without the endorsement of Ambrose W.J. Clay for payment of the judgment, interest and court costs.

APPROVED FOR ENTRY:

C. Allen High
CHANCELLOR

Ambrose W. J. Clay, pro se

Robert L. Taylor
Robert L. Taylor, Solicitor for
defendants and cross-plaintiffs

I certify a copy of this order has been forwarded this the 16th day of May, 1980 to Ambrose W. J. Clay.

(8)

IN THE SUPREME COURT OF THE STATE OF TENNESSEE

Ambrose W. J. Clay, ETC, ET AL
Appellant-Petitioner

vs

ALLEN BANKS HALL, ET AL

DAVIDSON EQUITY
#79-56-II

TO THE HONORABLE JUDGE WILLIAM J. HARRISON

MOTION

Comes Ambrose W. J. Clay, and Moves this Court for an Order to stay the clerk from cashing the Certificate of deposit filed with said clerk in Chancery Court Part II, for the following reasons:

1. The appellant wishes his rights to be protected, while he appeals for redress to the Supreme Court of the United States.

Respectfully Submitted

Ambrose W. J. Clay

APPENDIX B

EXTRA! EXTRA! READ ALL ABOUT IT!

INJUSTICE IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE. INJUSTICE IN THE COURT OF APPEALS OF TENNESSEE AT NASHVILLE. INJUSTICE IN THE CHANCERY COURT, PART II, PROBATE, DAVIDSON COUNTY, TENNESSEE, AT NASHVILLE, IN THE CASE, STYLED HOE, INC. vs JKB ET AL.

A warranty Deed was signed in blank, with no property description written thereon. The same Warranty Deed was executed in blank, the Notary, executing it, testified, the Warranty Deed was blank, except for the signature of the person who signed it in blank, for the conveyance of another piece of property, to be carried out by one, who was working in a fiduciary capacity to effect this conveyance. This Warranty Deed is defective, in that, it has, as a beneficiary, a ficitious person who really does not exist, as one who was joining in the conveyance, and yet not signing the Deed. The defendants who alledgedly bought the property have not paid a penny worth of taxes since 1968 thru 1975, 1968 being the time they alledgedly bought the property. The Homeowners Enterprises, Inc., have a Warranty deed to the property, and the Tax Assessor's Office have assessed the property to the Homeowners Enterprises, Inc., and they have been paying the taxes since 1967. The one who alledgedly sold the property received no money or consideration for this property, and testified to this effect.

One of the defendants, who alledgedly bought the property as tenants in common, by interrogatories, committed perjury on more than 3 counts, including denying ever having worked in a fiduciary capacity for the one who alledgedly sold the property. All these facts have been clearly demonstrated before the courts, and they are of record, and yet these courts cannot set aside this fradulent conveyance, the record clearly showing this.

The Public is invited to read the record in the case styled HOMEOWNERS ENTERPRISES, INC. vs. JKB ET AL, Davidson County Equity. The supreme Court Clerk at Nashville will be glad to show you the record it you demand to see it. You have a RIGHT TO KNOW AND DETERMINE IF THIS IS JUSTICE. WE HOLD THIS TO BE INJUSTICE IN THE FULLNESS OF MEASURE. YOU MAY OBTAIN A COPY OF THE WARRANTY DEED REFERRED TO ABOVE BY CONTACTING THE REGISTER OF DEEDS, METRO-POLITAN GOVERNMENT COURT HOUSE, ASKING FOR A COPY OF THE DEED RECORDED IN BK #4214 pages 445, 446, 447, and 448, and paying 10c per page, and you may obtain any other documents or records by paying a nominal fee.

HOMEOWNERS ENTERPRISES, INC.
P.O. BOX 642, Nashville, Tenn. 37202

THE SIGN OF THE MOUNTAIN GOAT, CLIMBING ON THE STRENGTH OF IT'S WILL AND THE POWER OF IT'S MIGHT